

JOURNAL OF THE HOUSE.

Monday, April 8, 2013.

Met at six minutes after eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Pledge of allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Statement of Ms. Decker of Cambridge.

A statement of Representative Decker of Cambridge was spread upon the records of the House, as follows:

Statement of Ms. Decker of Cambridge.

MR. SPEAKER: I would like to call to the attention of the House the fact that I was unable to be present in the House Chamber for a portion of today's sitting due to official business in my district. If I had been present for the taking of yea and nay Nos. 64, 65 and 66, I would have voted, in each instance, in the negative. My missing of said roll calls was due entirely to the reason stated.

Statement Concerning Representative Kafka of Stoughton.

A statement of Mr. Mariano of Quincy concerning Mr. Kafka of Stoughton was spread upon the records of the House, as follows:

Statement concerning Mr. Kafka of Stoughton.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kafka of Stoughton, is unable to be present in the House Chamber for today's sitting due to a planned family commitment. If he could be present for the vote on passing to be engrossed the House Bill relative to transportation finance, he would vote in the affirmative. His missing of roll calls today is due entirely to the reason stated.

Statement Concerning Representative Sánchez of Boston.

A statement of Mr. Rushing of Boston concerning Mr. Sánchez of Boston was spread upon the records of the House, as follows:

Statement concerning Mr. Sánchez of Boston.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Sánchez of Boston, is unable to be present in the House Chamber for today's sitting due to a planned family commitment. If he could be present for the vote on passing to be engrossed the House Bill relative to transportation finance, he would vote in the affirmative. His missing of roll calls today is due entirely to the reason stated.

Statement of Mr. Toomey of Cambridge.

A statement of Representative Toomey of Cambridge was spread upon the records of the House, as follows:

Statement of Mr. Toomey of Cambridge.

MR. SPEAKER: I would like to call to the attention of the House the fact that I was unable to be present in the House Chamber for a portion of today's sitting due to official business in my district. If I had been present for the taking of yea and nay Nos. 64, 65 and 66, I would have

voted, in each instance, in the negative. My missing of said roll calls was due entirely to the reason stated.

Petition.

Representative Scibak of South Hadley and Senator Knapik presented a joint petition (subject to Joint Rule 12) of John W. Scibak and Michael R. Knapik for legislation to establish a sick leave bank for John Gustavis, an employee of the Hampshire County Sheriff's Department; and the same was referred, under Rule 24, to the committee on Rules.

John Gustavis,—
sick leave.

Papers from the Senate.

Reports

Of the committee on Transportation, asking to be discharged from further consideration

Of the petition (accompanied by bill, Senate, No. 1678) of Thomas M. McGee, Lori A. Ehrlich, Sal N. DiDomenico, Robert F. Fennell and others for legislation relative to Gold Star Family vanity registration plates;

Gold Star Family license plates.

Of the petition (accompanied by bill, Senate, No. 1692) of Theresa Murray for legislation to designate a Gold Star Highway; and

Gold Star Highway.

And recommending the same severally be referred to the committee on Veterans and Federal Affairs.

Severally accepted by the Senate, were considered forthwith, under Rule 42; and they were accepted, in concurrence.

A petition (accompanied by bill, Senate, No. 1764) of Michael J. Rodrigues, David B. Sullivan, Alan Silvia and Paul A. Schmid, III (with the approval of the mayor and city council) for legislation relative to a water storage facility in the city of Fall River, was referred, in concurrence, to the committee on Municipalities and Regional Government.

Fall River,—
water storage.

Reports of Committees.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 1511) of Deborah Raptopoulos for legislation to reform foster care services for children with regards to best interest representation;— and recommending that the same be referred to the committee on Children, Families and Persons with Disabilities.

Foster children,—
representation.

By Mr. Kaufman of Lexington, for the committee on Revenue, asking to be discharged from further consideration:

Of the petition (accompanied by bill, House, No. 2513) of John J. Binienda and Michael O. Moore for legislation to establish a municipal recycling enhancement fund from certain grants and revenue provided from unclaimed beverage container deposits; and

Municipalities,—
recycling.

Of the petition (accompanied by bill, House, No. 2741) of Frank I. Smizik and others for legislation to establish an oil heat energy efficiency fund from an additional assessment on home heating oil;

Home heating oil,—
fund.

And recommending that the same severally be referred to the committee on Telecommunications, Utilities and Energy.

Under Rule 42, the reports severally were considered forthwith; and they were accepted. Severally sent to the Senate for concurrence.

Malden,—
sewer
easement.

By Ms. Peake of Provincetown, for the committee on Municipalities and Regional Government, on a joint petition, a Bill authorizing the city of Malden to convey a sewer easement over a portion of certain park land (House, No. 1836, changed in section 1, in line 1 by striking out the word “The” and inserting in place thereof the following “Notwithstanding any general or special law to the contrary, but subject to paragraphs (a), (b) and (g) of section 16 of chapter 30B of the General Laws, the”) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Coppinger of Boston, for said committee, then reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of the same member, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently under suspension of the rules, on motion of Mr. Fallon of Malden, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Springfield,—
public ways.

By Ms. Peake of Provincetown, for the committee on Municipalities and Regional Government, on a petition, a Bill relative to the sale and storage of goods in public ways in the city of Springfield (House, No. 1877) [Local Approval Received]. Read; and referred, under Rule 33, to the committee on Ways and Means.

Foxborough,—
town
manager.

By Ms. Peake of Provincetown, for the committee on Municipalities and Regional Government, on a joint petition, a Bill relative to the town of Foxboro [sic] (House, No. 1819) [Local Approval Received].

Dudley,—
treasurer,
etc..

By the same member, for the same committee, on a joint petition, a Bill relative to combining the offices of town treasurer and town collector in the town of Dudley (House, No. 1833) [Local Approval Received].

Westborough,—
charter.

By the same member, for the same committee, on a petition, a Bill amending the town charter regarding certain appointed boards in the town of Westborough (House, No. 1835) [Local Approval Received].

Norton,—
charter.

By the same member, for the same committee, on a petition, a Bill amending the charter of the town of Norton (House, No. 1848) [Local Approval Received].

Weymouth,—
tax collector.

By the same member, for the same committee, on House, Nos. 1868 and 3233, a Bill validating the actions taken by assistant tax collector, Rosemarie Driscoll, in the town of Weymouth (House, No. 1868) [Local Approval Received].

Wales,—
library building
fund.

By the same member, for the same committee, on a joint petition, a Bill creating a library building fund for the town of Wales (House, No. 1875) [Local Approval Received].

Springfield,—
land.

By the same member, for the same committee, on a petition, a Bill authorizing the city of Springfield to exchange parcels of land (House, No. 3226) [Local Approval Received].

Nantucket,—
preservation
committee.

By the same member, for the same committee, on a joint petition, a Bill relative to the Community Preservation Committee in the town of Nantucket (House, No. 3324) [Local Approval Received].

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Recess.

At ten minutes after eleven o'clock A.M., on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House recessed until the hour of twelve o'clock noon; and at that time the House was called to order with Mr. Donato in the Chair. Recess.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Bradley of Hingham) commending Michael C. Patrolia for his years of dedicated service to the town of Cohasset; and Michael C. Patrolia.

Resolutions (filed by Representatives Winslow of Norfolk and Poirier of North Attleborough) congratulating David Bois on the occasion of his retirement; David Bois.

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Hill of Ipswich, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Recess.

At two minutes after twelve o'clock noon, on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House recessed until one o'clock P.M.; and at thirteen minutes after one o'clock, the House was called to order with Mr. Donato in the Chair. Recess.

Paper from the Senate.

The Senate Bill establishing a sick leave bank for Cheryl A. Cole, an employee of the Office of Medicaid (Senate, No. 1757) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling. Cheryl A. Cole,—
sick leave.

Mr. Coppinger of Boston, for said committee, then reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of the same member, the bill was read a second time forthwith; and it was ordered to a third reading.

*Motions to Discharge Certain Matters
in the Orders of the Day.*

The House Bill relative to transportation finance (House, No. 3382), reported by the committee on Bills in the Third Reading to be correctly drawn, was discharged from its position in the Orders of the Day and read a third time, under suspension of Rule 47, on motion of Mr. Dempsey of Haverhill. Transportation
finance.

After debate on the question on passing the bill to be engrossed (Mrs. Haddad of Somerset being in the Chair), Mr. Toomey of Cambridge moved to amend it by add the following two sections:

“SECTION 45. (a) Section 4 of chapter 62 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:—

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(b) Part B taxable income shall be taxed at the rate of 5.95 per cent for tax years beginning on or after January 1, 2014.

(b) Section 183 of chapter 184 of the acts of 2002, as amended by section 44 of chapter 300 of the acts of 2002, is hereby repealed.

SECTION 46. (a) Subparagraph (1) of paragraph (b) of part B of section 3 of chapter 62 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out clause (A) and inserting in place thereof the following clause:—

(A) a personal exemption of \$11,000 for tax years beginning on or after January 1, 2014.

(b) Subparagraph (1A) of said paragraph (b) of said part B of said section 3 of said chapter 62, as so appearing, is hereby amended by striking out clause (A) and inserting in place thereof the following clause:—

(A) a personal exemption of \$17,000 for tax years beginning on or after January 1, 2014.

(c) Subparagraph (2) of said paragraph (b) of said part B of said section 3 of said chapter 62, as so appearing, is hereby amended by striking out clause (A) and inserting in place thereof the following clause:—

(A) a personal exemption of \$22,000 for tax years beginning on or after January 1, 2014.”

Point of
order.

Mr. Jones of North Reading thereupon raised a point of order that the amendment was beyond the scope of the subject-matter currently before the House.

In answer to the point of order, the Chair (Mr. Haddad of Somerset) stated that the amendment offered by the gentleman from Cambridge would increase the income tax rate. Since there are no provisions contained in the bill currently before the House pertaining to the income tax, the Chair ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Hill of Ipswich then moved to amend the bill by adding the following section:

“SECTION 45. There is hereby established a special task force to analyze the feasibility of a registration plate system utilizing enhanced recognition and identification registration plates. The task force shall consist of the registrar of motor vehicles, who shall serve as the chair; the colonel of the state police or a designee; a representative of the Massachusetts Chiefs of Police Association; a representative of the criminal justice information systems; a designee from the Molly Bish Center for Missing and Exploited Children; the secretary of administration and finance or a designee the secretary of transportation or a designee; a representative of the American Automobile Association; a representative of the Massachusetts Correctional Industries; the secretary of the executive office of public safety and security or a designee; a representative of the State Police Association of Massachusetts; a member of a labor organization representing police officers designated by the governor; a designee appointed by the senate president; a designee appointed by the minority leader of the senate; a designee appointed by the speaker of the house of representatives; and a designee appointed by the minority leader of the house of representatives.

The study shall include, but not be limited to, short-term and long-term costs to the commonwealth, time frame for implementation, impact on federal, state and local law enforcement and between states and the tools and equipment necessary to produce enhanced recognition and identification registration plates. The study shall assess: (i) human reaction to numbers, letters, characters and symbols and the ability to cognitively process such numbers, letters, characters and symbols; provided, however, that the task force shall rely upon scientific studies that have been peer reviewed and consult with relevant research or clinical scientists or medical professionals to verify the accuracy of the information it reviews; (ii) transportation-based factors including, but not limited to, the impact on toll revenues; (iii) interfaces with motor vehicle databases in other states including, without limitation, any licensing and registration system used by the registry of motor vehicles; and (iv) criminal information system accessibility.

The task force may conduct 1 or more public hearings to inform the public of its activities. The task force shall seek input from the United States Department of Justice, the United States Immigration and Customs Enforcement and the United States Department of Homeland Security. The report of the task force shall be filed with the Clerks of the Senate and the House of Representatives not later than December 31, 2013.

Section 2. For the purposes of this section, 'enhanced recognition and identification registration plate' shall be a registration plate that has the capability to incorporate:

(a) commonly recognizable symbols, which are easily identifiable, with each symbol having a corresponding 3 character alpha-numeric reference, with not more than 2 characters identifying the symbol and 1 character representing the location of the symbol on the plate, such that both the symbol and the references may be placed in a variety of locations on the plate to maximize the number of individual combinations that may be produced in conjunction with standard letters and numbers;

(b) existing and innovative technologies and componentry to aid in the identification of characters in conditions that result in poor-visibility, including, but not limited to, nighttime and inclement weather;

(c) not more than 4 alpha-numeric characters; and

(d) distinctive and low-number plates, including plates authorized under sections 2 and 2E of chapter 90 of the General Laws, as well as any distinctive registration plates issued by the registrar under section 2F of said chapter 90.

Section 3. If designing, developing, procuring or implementing an information management system as a successor or replacement to its Automated License and Registration System, the registrar of motor vehicles shall, in good faith, attempt to ensure that such system is consistent with the technology necessary to effectively utilize enhanced recognition and identification registration plates. Nothing in this section shall limit the ability of the registrar to make necessary changes and improvements to the current Automated License and Registration System, or limit the registrar from designing, developing, procuring or implementing a successor system that is not compliant with enhanced

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recognition and identification registration plates if the registrar determines a system compatible with enhanced recognition and identification registration plates is not in the best interest of the registry of motor vehicles or the commonwealth.”.

Point of
order.

Mr. McMurtry of Dedham thereupon raised a point of order that the amendment offered by the gentleman from Ipswich was beyond the scope of the subject-matter currently before the House.

In answer to the point of order, the Chair (Mrs. Haddad of Somerset) stated that the amendment offered by the gentleman from Ipswich would establish a special task force to analyze the feasibility of an enhanced recognition and identification registration plate system, which would expand the provisions contained in the bill currently before the House. Therefore, the Chair ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Appeal from
decision of
Chair.

Mr. Hill thereupon appealed the decision of the Chair; and the appeal was seconded by Mr. Winslow of Norfolk.

The question was then put “Shall the decision of the Chair stand as the judgment of the House?”.

Decision of
Chair
sustained,—
yea and nay
No. 47.

On the appeal from the decision of the Chair, the sense of the House was taken by yeas and nays, at the request of Mr. Hill of Ipswich; and on the roll call 122 members voted in the affirmative and 30 in the negative.

[See Yea and Nay No. 47 in Supplement.]

Therefore the decision of the Chair was sustained.

Messrs. Sciortino of Medford and Garballey of Arlington then moved to amend the bill by adding the following section:

“SECTION 45. Section 2ZZZ of chapter 29, as appearing in the 2010 Official Edition, is hereby amended by inserting after subsection (d) the following subsection: (e) In addition to the revenues credited to the Massachusetts Bay Transportation Authority in subsections (c) and (d) of this section and to the regional transit authorities in subsection (d) of this section, the state treasurer acting on behalf of the commonwealth shall enter into an agreement with the Massachusetts Bay Transportation Authority providing that the commonwealth shall provide contract assistance from the Commonwealth Transportation Fund, from funds not otherwise required to be paid to the Massachusetts Bay Transportation Authority or the regional transit authorities, for all debt service obligations of the Massachusetts Bay Transportation Authority originally derived from the Central Artery obligations of the commonwealth. Such contract assistance agreement shall provide for the payment by the commonwealth of such debt service obligations of the Massachusetts Bay Transportation Authority at such time during each such fiscal year and upon such terms and under such conditions as the Massachusetts Bay Transportation Authority may stipulate. The Massachusetts Bay Transportation Authority may pledge such agreement and the rights of the Massachusetts Bay Transportation Authority to receive amounts thereunder as security for the payment of debt obligations issued by the Massachusetts Bay Transportation Authority. Such agreement shall constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth shall be pledged for the benefit of the Massachusetts Bay Transportation Authority and of the holders of any debt obligations of the Massachusetts Bay Trans-

portation Authority which may be secured by a pledge of such agreement or of amounts to be received by the Massachusetts Bay Transportation Authority under such agreement. The secretary of administration and finance shall calculate annually the portion of the Massachusetts Bay Transportation Authority debt that originates from the Central Artery obligations of the commonwealth.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Jones of North Reading; and on the roll call 46 members voted in the affirmative and 105 in the negative.

Amendment
rejected,—
yea and nay
No. 48.

[See Yea and Nay No. 48 in Supplement.]

Therefore the amendment was rejected.

Messrs Lyons of Andover and Lombardo of Billerica then moved to amend the bill by adding the following section:

“SECTION 45. Chapter 7 of the General Laws is hereby amended by inserting, after section 61, the following section:

Section 62. Notwithstanding any general or special law to the contrary, the executive office of administration and finance shall prepare a report on the following: 1) the total amount of the state budget that is being used to fund individual, family, and other benefits or expenditures on behalf of citizens of the United States who are residents of the Commonwealth of Massachusetts; 2) the total amount of the state budget that is being used to fund individual, family, and other benefits or expenditures on behalf of persons holding Green Cards who are residents of the Commonwealth of Massachusetts; 3) the total amount of the state budget that is being used to fund individual, family, and other benefits or expenditures on behalf of citizens of the United States whose residence in the Commonwealth of Massachusetts cannot be established; and 4) the total amount of the state budget that is being used to fund individual, family, and other benefits and expenditures on behalf of all other persons.

(b) Said report shall also itemize expenditures used to provide services to residents of the Commonwealth, non-residents, and those whose residence cannot be identified with respect to: legal services, including but not limited to criminal defense costs; translations and translator services; the detention of prisoners; and the Health Safety Net program, including cost to government, cost shifting to other payers or insurers, and the cost to hospitals, clinics, and other health-care providers.

(c) In calculating the amounts described in subsections (a) and (b), the executive office of administration and finance shall utilize generally accepted accounting principles encompassing all state spending.

(d) Said report shall be filed with to the chair and ranking minority member of the house committee on ways and means, the chair and ranking minority member of the senate committee on ways and means, and the clerks of the house of representatives and senate no later than April 15, 2013.”.

Mr. Speliotis of Danvers thereupon raised a point of order that the amendment offered by gentlemen from Andover and Billerica was improperly before the House for the reason that it went beyond the scope of the pending bill.

Point of
order.

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In answer to the point of order, the Chair (Mrs. Haddad of Somerset) stated that the point of order was well taken; and the amendment was laid aside accordingly.

Ms. Provost of Somerville then moved to amend the bill by adding the following section:

“SECTION 45. No vote shall be taken on H.3382 until a year-by-year analysis is performed for fiscal years 2014 through 2018, showing how much new revenue will be raised each year, how much applied to transportation, and how much will be spend on fulfilling the requirements of the State Implementation Plan (SIP) for its obligations under the Clean Air Act, and demonstrating that the plan embodied in the bill raises sufficient new revenues to fund SIP projects and to meet other required federal conformity requirements so that Massachusetts does not jeopardize its federal transportation funding from any source.”.

Point of
order.

Mr. Peterson of Grafton thereupon raised a point of order that the amendment offered by the lady from Somerville was improperly before the House because a similar amendment was considered and rejected at the previous reading of the bill.

The Chair (Mrs. Haddad) stated that since amendments of a similar or exact nature considered at one reading may be considered at a subsequent reading, the point of order was not well taken.

Amendment
rejected,—
yea and nay
No. 49.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Ms. Andrews of Orange; and on the roll call 38 members voted in the affirmative and 114 in the negative.

[See Yea and Nay No. 49 in Supplement.]

Therefore the amendment was rejected.

Messrs. Lombardo of Billerica and Lyons of Andover then moved to amend the bill in section 27, in lines 562 and 563, by striking out the following: “(3) funds contributed to the Motor Vehicle Inspection Trust Fund under section 61 of chapter 10; and (4)” and inserting in place thereof the following: “and (3)”.

Amendment
rejected,—
yea and nay
No. 50.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mrs. O’Connell of Taunton; and on the roll call 32 members voted in the affirmative and 120 in the negative.

[See Yea and Nay No. 50 in Supplement.]

Therefore the amendment was rejected.

Ms. Farley-Bouvier of Pittsfield then moved to amend the bill by inserting after section 9 the following section:

“SECTION 9A. Section 2ZZZ of chapter 29 is hereby amended by striking out subsection (d)(2) and inserting in place thereof the following:—

(2) \$80,000,000 shall annually be distributed from the fund to the regional transit authorities organized under chapter 161B or predecessor statutes in each fiscal year, provided that in fiscal year 2014 those funds shall be provided for the purpose of forward funding said regional transit authorities and provided further that the minimum required transfer provided herein shall be adjusted by the percentage, if any, by which the Consumer Price Index for the proceeding year exceeds the Consumer Price Index for the calendar year that ends before such preceding year.”.

The amendment was rejected.

Mr. Cusack of Braintree then moved to amend the bill by striking out section 23 and inserting in place thereof the following section:

“SECTION 23. Section 1 of chapter 64H of the General Laws, as so appearing, is hereby amended by inserting after the definition of ‘Commissioner’ the following definition:—

‘Computer system design services’, the planning, consulting or designing of computer systems that integrate computer hardware, software or communication technologies and are provided by a vendor or a third party. Computer system design services shall be deemed to be services for the purposes of this chapter and chapter sixty-four I.”.

The amendment was rejected.

Mr. Collins of Boston then moved to amend the bill by adding the following section:

“SECTION 45. Section 110 of Chapter 205 of the Acts of 1996 is hereby amended in the first sentence by inserting, after the words ‘Massachusetts Port Authority properties’, the following:— provided, however that any municipal police department that adopts this section, shall have concurrent jurisdiction with the department of the state police in all Massachusetts Port Authority properties located within the municipality, except those properties exclusive to aviation and port operations, and a memorandum of understanding shall be executed, as appropriate and in the interest of public safety, upon consultation with the Massachusetts Port Authority, between the department of state police and the municipal police department that shall include, but not limited to, procedures involving; (i) assignment of police officers; (ii) first responder calls and emergency 911 dispatch; (iii) emergencies occurring on Massachusetts Port Authority properties; (iv) criminal investigations of incidents and crimes; and, (v) arrests and processing of individuals taken into custody.”.

Mr. Jones of North Reading thereupon raised the point of order that the amendment was beyond the scope of the subject-matter currently before the House. Point of order.

In answer to the point of order, the Chair (Mrs. Haddad of Somerset) stated that the amendment offered by the gentleman from Boston pertains to a public safety jurisdiction issue that would expand the provisions of the bill. Therefore, the Chair ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 8 the following section:

“SECTION 8A. Chapter 10 of the General Laws, as most recently amended by chapter 307 of the Acts of 2012, is hereby amended by inserting after section 35XX the following new section:—

Section 35YY. (a) As used in this section, the following words shall, unless the context otherwise requires, have the following meanings:—

‘Allowable budgetary tax revenues’, for fiscal year 2014, an amount equal to baseline budgetary tax revenues; for fiscal years 2015 to 2017, an amount equal to allowable budgetary tax revenues for the preceding fiscal year, plus the allowable budgetary tax revenue growth rate; for fiscal year 2018 and each subsequent fiscal year, an amount equal to allowable budgetary tax revenues for the preceding fiscal year plus the total state tax revenue growth rate.

‘Allowable budgetary tax revenue growth rate’, the total state tax revenue growth rate minus 0.25%.

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'Baseline budgetary tax revenues', an amount equal to the consensus tax revenue estimate for fiscal year 2014, as determined by the consensus tax revenue forecast pursuant to section 5B of chapter 29, minus \$195,000,000.

'Total state tax revenues', the revenues of the commonwealth from every tax, surtax, receipt, penalty and other monetary exaction and interest in connection therewith as determined by the consensus tax revenue forecast pursuant to section 5B of chapter 29, including, but not limited to, taxes and surtaxes on personal income, excises and taxes on retail sales and use, meals, motor vehicle fuels, businesses and corporations, commercial banks, insurance companies, savings banks, public utilities, alcoholic beverages, tobacco, inheritances, estates, deeds, room occupancy and pari-mutuel wagering, but excluding revenues collected by the state from local option taxes, so-called, for further direct distribution to cities and towns.

'Total state tax revenue growth rate', the annual percentage change in total state tax revenue from the current fiscal year to the previous fiscal year, as determined by the consensus tax revenue forecast pursuant to section 5B of chapter 29.

(b) There is hereby set up on the books of the commonwealth a separate fund to be known as the Transportation Investment Fund, hereinafter called the fund. There shall be credited to the fund: an amount equal to the difference of total state tax revenues and allowable budgetary tax revenues; or an amount to be certified by the comptroller pursuant to subsection (d), whichever is greater.

(c) Amounts in the fund shall be held by the state treasurer or his designee as trustee and not on account of the commonwealth, and the state treasurer is hereby authorized and directed to disburse amounts in the fund according to the following schedule: (i) for the fiscal year 2014, an amount not to exceed \$139,000,000 to the Commonwealth Transportation Fund, established by section 2ZZZ of chapter 29, and the remaining balance of such excess Pay-Go Capital and Transportation Debt Relief Fund, established by section 2HHHH of chapter 29; (ii) for the fiscal year 2015, an amount not to exceed \$131,400,000 to the Commonwealth Transportation Fund, established by section 2ZZZ of chapter 29, and the remaining balance of such excess Pay-Go Capital and Transportation Debt Relief Fund, established by section 2HHHH of chapter 29; for the fiscal year 2016, an amount not to exceed \$227,400,000 to the Commonwealth Transportation Fund, established by section 2ZZZ of chapter 29, and the remaining balance of such excess Pay-Go Capital and Transportation Debt Relief Fund, established by section 2HHHH of chapter 29; for the fiscal year 2017, an amount not to exceed \$136,400,000 to the Commonwealth Transportation Fund, established by section 2ZZZ of chapter 29, and the remaining balance of such excess Pay-Go Capital and Transportation Debt Relief Fund, established by section 2HHHH of chapter 29; for the fiscal year 2018 and each subsequent fiscal year, an amount not to exceed \$259,900,000 to the Commonwealth Transportation Fund, established by section 2ZZZ of chapter 29, and the remaining balance of such excess Pay-Go Capital and Transportation Debt Relief Fund, established by section 2HHHH of chapter 29.

(d) For purposes of determining the amount to be credited to the Transportation Investment Fund established pursuant to subsection (b), the comptroller shall on March 1 of each year certify allowable budgetary tax revenue growth rate and total state tax revenue growth rate for the following fiscal year. If the comptroller certifies that the total state tax revenue growth rate will be less than 2.5%, then the comptroller shall credit to the fund amounts sufficient to meet the amount authorized to be transferred to the Commonwealth Transportation Fund for the fiscal year under subsection (c).”; and by adding the following two sections:

“SECTION 45. Chapter 29 of the General Laws, as so appearing, is hereby amended by inserting after section 2GGGG the following section:—

Section 2HHHH. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Pay-Go Capital and Transportation Debt Relief Fund, consisting of amounts transferred to the fund in accordance with section 35YY of chapter 10, income derived from the investment of amounts so transferred, and any other applicable general or special law. Money remaining in the fund at the end of the year shall not revert to the General Fund.

The purpose of the fund shall be to create and maintain a reserve from which appropriations shall be made for the following purposes: (1) to provide a cash resource for the purchase of transportation-related infrastructure, as determined by the department, and (2) to provide debt service to amortize the principal amount of debt issued by the Commonwealth for transportation purposes, or by the Massachusetts Bay Transportation Authority, as determined by the department; provided, not more than 40 per cent of the fund’s reserves shall be used pursuant to subdivision (1), and not more than 60 per cent of the fund’s reserves shall be used pursuant to subdivision (2). The fund shall be under the control of the department, and shall not be subject to appropriation.

SECTION 46. Section 5B of chapter 29 of the General Laws, as most recently amended by section 112 of chapter 165 of the Acts of 2012, is hereby amended by striking the third sentence of the fourth paragraph and inserting in place thereof the following:—

Said consensus tax estimate shall determine the amount of total state tax revenues and the amount of state tax revenues available for the annual budget, which shall equal total state tax revenue net of the amount necessary to transfer, from the General Fund to the Commonwealth’s Pension Liability Fund, to amortize the unfunded liability of the system according to the schedule established under paragraph (1) of section 22C of chapter 32, and of the amounts transferred to the MBTA State and Local Contribution Fund under 1 section 35T of chapter 10, and to the School Modernization and Reconstruction Trust Fund under section 35BB of chapter 10, and to the Transportation Investment Fund under section 35YY of chapter 10.”.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 32 members voted in the affirmative and 120 in the negative.

Amendments
rejected,—
yea and nay
No. 51.

[See Ye and Nay No. 51 in Supplement.]

Therefore the amendments were rejected.

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Mr. Sciortino of Medford and other members of the House then moved to amend the bill by adding the following five sections:

“SECTION 45. This bill is intended to guide investment to build a more financially stable, safer, and modern, transportation system across the entire commonwealth that is consistent with state public policies concerning economic health and development, the environment, and social and regional equity. The Commonwealth of Massachusetts and the Massachusetts Department of Transportation shall foster a better transportation system that will encourage economic stability and growth through job retention and development; promote fairness and social and regional equity; increase transportation choice; improve the health of Massachusetts residents; protect low-income public transportation riders and drivers; and reduce energy consumption, congestion, dependence on oil, and greenhouse gas emissions and other air pollution.

SECTION 46. Chapter 6C of the General Laws is hereby amended by inserting after Section 8 the following section:

Section 8A. The secretary of transportation shall eliminate the payment of operational costs including, but not limited to, rents, salaries, and other personnel or personnel-related costs from capital funds or the capital budget and prohibit any borrowing for operating expenses within one year of the passage of this act in order to ensure that the general obligation bonding capacity of the commonwealth is directed to high priority transportation infrastructure projects.

SECTION 47. Section 34 of said chapter 6C, as appearing in the 2010 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:

Prior to the final approval of a transportation infrastructure project, including mass transit expansion or the construction of projects such as new roadways, additional road lanes, fly-overs, and highway interchanges, with a projected capital cost of more than \$15,000,000 in state funds, and prior to expending any funds for the planning, design and construction of any such project, the secretary of transportation shall request that the administrator of the appropriate division of the department of transportation prepare an analysis demonstrating the project's impact on greenhouse gas emissions; seniors, people with disabilities, low-income residents, and people of color, including health, social, economic and displacement consequences; economic stability through job retention and development potential, including the economic development potential for gateway municipalities as defined in section 3A of chapter 23A and those in state-designated environmental justice neighborhoods or communities as defined by the executive office of energy and environmental affairs environmental justice policy; travel times, pedestrian and bicycle access; and annual cost of operation. The analysis must demonstrate that the project is consistent with the goals, and implementation plan where applicable, of the commonwealth's commitments to attaining a 25 percent reduction in greenhouse gas emissions below statewide 1990 levels by 2020 and an 80 percent reduction by 2050 (found in Chapter 21N); achieving positive public health outcomes through coordination of land use, transportation and public health policy (found in section 33 of chapter 6C); tripling the number of trips made by bicycling, walking or public trans-

portation (found in the mode shift goal of the GreenDOT policy directive dated June 2, 2010, P-10-002), the multimodal accommodation and complete streets goals and requirements (found in the Massachusetts Highway Project Development and Design Guidebook dated January 2006), the environmental justice policy created by the executive office of energy and environmental affairs, and maintaining and enhancing its existing public transportation system. The secretary of transportation shall develop a methodology for this analysis within one year of passage of this act. This analysis shall be submitted to any transportation agency or body that may consider the project for selection or approval, to any advisory boards to the respective divisions of the department of transportation, and be made available to the public. Any transportation agency or body considering such a transportation project for selection or approval shall review the analysis prior to making a decision and must consider the following as selection criteria in its project selection process: greenhouse gas emissions; impacts on seniors, people with disabilities, low-income residents, and people of color, including health, social, economic and displacement consequences; economic development potential, including the economic development potential for gateway municipalities as defined in section 3A of chapter 23A and those in state-designated environmental justice neighborhoods or communities as defined by the executive office of energy and environmental affairs environmental justice policy; impact on pedestrian and bicycle access; and cost of operation.

In addition to the analysis described herein, these criteria and others as determined necessary by MassDOT will be set forth as project selection criteria within two years of the passage of this legislation.

SECTION 48. Said chapter 6C is hereby further amended by inserting after section 34 the following section:

Section 34A. The secretary of transportation shall be mandated with all powers, authority and resources to ensure that the share of travel in the commonwealth by bicycling, transit, and walking is tripled across the state by January 1, 2030 with programs implemented in every region. To this end, the secretary of transportation shall, within a year of the passage of this legislation, develop a baseline of the amount of current travel by bicycling, transit, and walking in the commonwealth and a clear and accurate way to measure annual progress. Annual progress reports shall be submitted to the joint committee on transportation and made available to the public and shall identify ways to invest in the existing public transportation system and in environmental justice neighborhoods as defined in the executive office of energy and environmental affairs.

SECTION 49. Said chapter 6C is hereby further amended by inserting after section 50 the following section:

Section 50A. The secretary of transportation shall ensure that an equitable portion of any new revenue raised for or dedicated to transportation will be spent in or for the direct benefit of each of the 13 regional planning areas delineated in section 3 of chapter 40B based on relevant factors including a combination of current population size and jobs, as reflected by total payroll amounts. The amount will be evaluated every five years and shortfalls will be corrected and adjusted by the end of the following fiscal year.

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The secretary shall ensure that a sufficient portion of any new revenue raised for or dedicated to transportation will be spent in or for the direct benefit of transportation maintenance, based on relevant factors including a combination of public safety and use. The amount will be evaluated every five years and shortfalls will be corrected and adjusted by the end of the following fiscal year.

In addition to equitable funding to regional planning areas outlined above, the secretary of transportation shall also develop a program that provides gateway municipalities as defined in section 3A of chapter 23A and environmental justice neighborhoods or communities as defined by the executive office of energy and environmental affairs environmental justice policy with sufficient funding for the planning or design of transportation projects potentially eligible for federal transportation dollars; healthy transportation investments such as bicycle, pedestrian and public transportation projects; complete streets projects; or projects that create increased transit-oriented development opportunities with affordable housing.

The secretary of transportation may, subject to appropriation, commit funds pursuant to this section to projects to be undertaken by the department or by executing a grant or other contractual agreement with a municipality or regional transit authority organized under chapter 161B, or to subgrantees of a municipality, or directly to regional transit authorities.”

Point of
order.

Mr. Donato of Medford thereupon raised a point of order that the amendment offered by the gentleman from Medford was beyond the scope of the subject-matter currently before the House.

The Chair (Mrs. Haddad of Somerset) stated that the amendment offered by the gentleman from Medford, et al, pertains to the implementation of environmental safeguards, including the dependence upon oil and the reduction of greenhouse gas emissions and other air pollutants that would expand the provisions of the bill. Therefore, the Chair ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Diehl of Whitman then moved to amend the bill by adding the following two sections:

“SECTION 45. Chapter 62 of the General Laws is hereby amended by adding the following section:

Section 65. (a) Notwithstanding any general or special law to the contrary, the department of revenue shall develop and implement a tax amnesty program in accordance with the provisions of this section to be effective for a period not to exceed 4 consecutive calendar months between July 1, 2013 and June 30, 2014, at the discretion of the commissioner.

(b) The tax amnesty program shall apply to taxes for which the department has issued a proposed assessment, notice of assessment, bill, notice or demand for payment on or after July 1, 2006, and before January 1, 2013, or to taxes that became due on or after 1, 2006, and before January 1, 2013.

(c) (i) The commissioner’s authority to waive penalties during the amnesty period shall not apply to any taxpayer who, before the start date of the amnesty program selected by the commissioner, was the subject of a tax-related criminal investigation or prosecution. The

amnesty program shall not authorize the waiver of interest or any amount treated as interest. The commissioner may offer tax amnesty to those taxpayers who have either an unpaid self-assessed liability or who have been assessed a tax liability, whether before or after the filing of a return, of which the assessed liability remains unpaid. (ii) A taxpayer who delivers or discloses any false or fraudulent application, document, return, or other statement to the department in connection with an amnesty application shall be ineligible for amnesty and shall be subject to the fraud penalty under present law, including section 11A of chapter 62B of the General Laws, or a penalty of \$10,000, whichever is greater.

(d) Amnesty shall not apply to those penalties which the commissioner would not have the sole authority to waive including, but not limited to, fuel taxes administered under the International Fuel Tax Agreement or under the local option portions of taxes or excises collected for the benefit of cities, towns or state governmental authorities.

(e) The commissioner shall maintain records of the amnesty provided under this section including, but not limited to: (i) the number of taxpayers provided with amnesty; (ii) the types of tax liability for which amnesty was provided and, for each type of liability, the amount of tax liability collected and the amount of penalties foregone by virtue of the amnesty program; and (iii) the total outstanding tax liability for amnesty-eligible taxpayers at the conclusion of the tax amnesty program after the collection of all funds under this section. The commissioner shall file a report detailing such information with the clerks of the house of representatives and the senate, the joint committee on revenue, the house and senate committees on ways and means, the minority leader of the house and the minority leader of the senate not later than September 1, 2010; provided, however, that such report shall not contain information sufficient to identify an individual taxpayer or the amnesty that an individual taxpayer was provided under this section.

(f) The department shall publicize the tax amnesty program in order to maximize the public awareness of and participation in the program.

(g) Participation in the amnesty program shall be conditioned upon agreement of the taxpayer that the right to protest or initiate an administrative or judicial proceeding that is granted is barred.

(h) Taxpayers electing to participate in amnesty who have paid under protest and filed suit shall agree that upon approval of their amnesty application, the department shall release their payment from escrow and apply it in accordance with the grant of amnesty.

(i) Amnesty shall only be granted for eligible taxes to eligible taxpayers, as determined by the department, who apply for amnesty during the amnesty period on forms prescribed by the department and who pay all of the tax, all fees and costs, if applicable. If the amnesty application is approved, the commissioner shall waive the remaining interest and all of the penalties associated with the tax periods to which amnesty is applied. No installment agreements will be entered into for tax periods that are approved for amnesty.

(j) Following the termination of the tax amnesty period, the department shall issue a deficiency assessment for a period for which amnesty was taken. The department shall have the authority to impose penalties and institute civil proceedings or criminal proceedings only

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with respect to the difference between the amount shown on the amnesty application and the correct amount of tax due.

(k) The department may, by regulation, impose after the expiration of the tax amnesty period a cost of collection penalty of 20 per cent of any deficiency assessed for any taxable period due on or after July 1, 2006, and ending before Jan. 1, 2014. This penalty shall be in addition to all other applicable penalties, fees, or costs.

(l) Taxpayers shall be eligible for a refund or credit if an overpayment that arises after the amnesty application is submitted and is attributable to a properly claimed Massachusetts net operating loss or that is attributable to an adjustment made by the Internal Revenue Service to the taxpayer's federal income tax and the taxpayer provides notice of the adjustment to the commissioner within 60 days of receipt of the adjustment from the Internal Revenue Service.

(m) The department shall not impose a penalty if a deficiency results from an adjustment made by the Internal Revenue Service to the taxpayer's federal income tax and the taxpayer provides notice of the adjustment to the commissioner within 60 days of receipt of the adjustment from the Internal Revenue Service, or if the taxpayer's application for amnesty was based on a proposed assessment or notice of assessment.

(n) Taxable periods beginning on or after January 1, 2010 taxpayers that participate in amnesty and later fail to comply with any payment and filing provision shall be subject to the negligence penalty under present law or a penalty of \$100, whichever is greater.

(o) The department may retain from monies collected under the tax amnesty program an amount equal to all penalties waived, an amount equal to the costs for contractual information technology and amnesty program administration services, and an amount equal to any collection fees, legal fees, or any other fees the department incurs that are associated with granting amnesty. Provided further, that the department shall also retain an amount not to exceed \$250,000 for advertising expenses from monies collected from taxes paid.

(p) all remaining monies collected under the tax amnesty program shall be paid into the General Fund.

SECTION 46. Chapter 63 is hereby amended by adding the following section:—

Section 82. (a) Notwithstanding any general or special law to the contrary, the department of revenue shall develop and implement a tax amnesty program for corporations, limited liability companies, and partnerships in accordance with the provisions of this section to be effective for a period not to exceed 4 consecutive calendar months between July 1, 2013 and June 30, 2014, at the discretion of the commissioner.

(b) The tax amnesty program shall apply to taxes for which the department has issued a proposed assessment, notice of assessment, bill, notice or demand for payment on or after July 1, 2006, and before January 1, 2013, or to taxes that became due on or after 1, 2006, and before January 1, 2013.

(c) (i) The commissioner's authority to waive penalties during the amnesty period shall not apply to any taxpayer who, before the start date of the amnesty program selected by the commissioner, was the subject of a tax-related criminal investigation or prosecution. The

amnesty program shall not authorize the waiver of interest or any amount treated as interest. The commissioner may offer tax amnesty to those taxpayers who have either an unpaid self-assessed liability or who have been assessed a tax liability, whether before or after the filing of a return, of which the assessed liability remains unpaid. (ii). A taxpayer who delivers or discloses any false or fraudulent application, document, return, or other statement to the department in connection with an amnesty application shall be ineligible for amnesty and shall be subject to the fraud penalty under present law, including and section 79 of chapter 63 of the General Laws, or a penalty of \$10,000, whichever is greater.

(d) Amnesty shall not apply to those penalties which the commissioner would not have the sole authority to waive including, but not limited to, fuel taxes administered under the International Fuel Tax Agreement or under the local option portions of taxes or excises collected for the benefit of cities, towns or state governmental authorities.

(e) The commissioner shall maintain records of the amnesty provided under this section including, but not limited to: (i) the number of taxpayers provided with amnesty; (ii) the types of tax liability for which amnesty was provided and, for each type of liability, the amount of tax liability collected and the amount of penalties foregone by virtue of the amnesty program; and (iii) the total outstanding tax liability for amnesty-eligible taxpayers at the conclusion of the tax amnesty program after the collection of all funds under this section. The commissioner shall file a report detailing such information with the clerks of the house of representatives and the senate, the joint committee on revenue, the house and senate committees on ways and means, the minority leader of the house and the minority leader of the senate not later than September 1, 2010; provided, however, that such report shall not contain information sufficient to identify an individual taxpayer or the amnesty that an individual taxpayer was provided under this section.

(f) The department shall publicize the tax amnesty program in order to maximize the public awareness of and participation in the program.

(g) Participation in the amnesty program shall be conditioned upon agreement of the taxpayer that the right to protest or initiate an administrative or judicial proceeding that is granted is barred.

(h) Taxpayers electing to participate in amnesty who have paid under protest and filed suit shall agree that upon approval of their amnesty application, the department shall release their payment from escrow and apply it in accordance with the grant of amnesty.

(i) Amnesty shall only be granted for eligible taxes to eligible taxpayers, as determined by the department, who apply for amnesty during the amnesty period on forms prescribed by the department and who pay all of the tax, all fees and costs, if applicable.. If the amnesty application is approved, the commissioner shall waive the remaining interest and all of the penalties associated with the tax periods to which amnesty is applied. No installment agreements will be entered into for tax periods that are approved for amnesty.

(j) Following the termination of the tax amnesty period, the department shall issue a deficiency assessment for a period for which amnesty was taken. The department shall have the authority to impose penalties and institute civil proceedings or criminal proceedings only with respect

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to the difference between the amount shown on the amnesty application and the correct amount of tax due.

(k) The department may, by regulation, impose after the expiration of the tax amnesty period a cost of collection penalty of 20 per cent of any deficiency assessed for any taxable period due on or after July 1, 2006, and ending before Jan. 1, 2014. This penalty shall be in addition to all other applicable penalties, fees, or costs.

(l) Taxpayers shall be eligible for a refund or credit if an overpayment that arises after the amnesty application is submitted and is attributable to a properly claimed Massachusetts net operating loss or that is attributable to an adjustment made by the Internal Revenue Service to the taxpayer's federal income tax and the taxpayer provides notice of the adjustment to the commissioner within 60 days of receipt of the adjustment from the Internal Revenue Service.

(m) The department shall not impose a penalty if a deficiency results from an adjustment made by the Internal Revenue Service to the taxpayer's federal income tax and the taxpayer provides notice of the adjustment to the commissioner within 60 days of receipt of the adjustment from the Internal Revenue Service, or if the taxpayer's application for amnesty was based on a proposed assessment or notice of assessment.

(n) taxable periods beginning on or after January 1, 2010 taxpayers that participate in amnesty and later fail to comply with any payment and filing provision shall be subject to the negligence penalty under present law or a penalty of \$100, whichever is greater.

(o) The department may retain from monies collected under the tax amnesty program an amount equal to all penalties waived, an amount equal to the costs for contractual information technology and amnesty program administration services, and an amount equal to any collection fees, legal fees, or any other fees the department incurs that are associated with granting amnesty. Provided further, that the department shall also retain an amount not to exceed \$250,000 for advertising expenses from monies collected from taxes paid.

(p) all remaining monies collected under the tax amnesty program shall be paid into the General Fund."

Point of
order.

Mr. McMurtry of Dedham thereupon raised a point of order that the amendment offered by the gentleman from Whitman was beyond the scope of the subject-matter currently before the House.

The Chair (Mrs. Haddad of Somerset) stated that the amendment offered by the gentleman from Whitman would expand the provisions of the bill by establishing a tax amnesty program. Therefore, the Chair ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Appeal from
decision of
Chair.

Mr. Deihl thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Jones of North Reading.

The question was then put "Shall the decision of the Chair stand as the judgment of the House?"

Decision of
Chair
sustained,—
yea and nay
No. 52.

After remarks on the appeal from the decision of the Chair, the sense of the House was taken by yeas and nays, at the request of Mr. Hill of Ipswich; and on the roll call 118 members voted in the affirmative and 30 in the negative.

[See Yea and Nay No. 52 in Supplement.]

Therefore the decision of the Chair was sustained.

Ms. Dykema of Holliston then moved to amend the bill by adding the following three sections:

“SECTION 45. Chapter 161A of the General Laws is hereby amended by adding the following section:—

Section 46. All vehicles used by the authority, whether owned or contracted, for transporting riders and passengers shall be equipped with technology that shall prevent texting by the driver or operator while the vehicle is in motion.

SECTION 47. Chapter 161B of the General laws is hereby amended by adding the following section:—

Section 28. All vehicles used by an authority established under section 3 or section 14, whether owned or contracted, for transporting riders and passengers shall be equipped with technology that shall prevent texting by the driver or operator while the vehicle is in motion.

SECTION 48. Sections 45 and 46 shall take effect on December 31, 2014.”

The amendment was rejected.

The same member then moved to amend the bill in section 6, in line 80 by inserting after the word “impacts” the words “, and benchmarks against performance by other states and countries”; and the amendment was adopted.

Mr. Rogers of Norwood then moved to amend the bill by adding the following section:

“SECTION 45. Notwithstanding any general or special law to the contrary, all fuel tax revenues generated pursuant to chapter 64A of the General laws or otherwise shall be credited to the Commonwealth’s transportation fund and such funds shall be used for transportation related purposes and for no other purposes, except for items funded from such revenues as of July 1, 2012.”

The amendment was adopted.

Messrs. Collins of Boston and Garballey of Arlington then moved to amend the bill by adding the following section:

“SECTION 46. (a) The department shall develop a mandatory Universal University Pass Program (U-Pass) beginning in fiscal year 2015 for colleges and universities throughout the commonwealth, with the purpose of providing unlimited rides on the transportation systems of the Massachusetts Bay Transportation Authority (MBTA) and the Regional Transit Authorities (RTA) to all full-time undergraduate and graduate students at the colleges and universities that are located within 1 mile of MBTA or RTA service. The U-Pass program shall contain all the terms of participation by the schools, the obligations of the department, MBTA, and RTAs under the program, and such other terms as necessary.

The U-Pass fare for the first fiscal year of the program shall be no less than 65% of the full fare, per student per semester. The department may increase the fare in later years. All colleges and universities that are located within 1 mile of service provided by the MBTA or a RTA are required to participate in the program and pay the applicable U-Pass fare for each full-time undergraduate and graduate student at the school directly to the applicable RTA or MBTA. The department may authorize alternative arrangements under unusual circumstances and may allow for the continuation of contracts that provide unlimited rides for students.

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(b) The department shall develop a voluntary Universal Employer Pass Program (E-Pass) beginning in fiscal year 2015 for large employers throughout the commonwealth, with the intended purpose of providing unlimited rides on the transportation systems of the Massachusetts Bay Transportation Authority (MBTA) and the Regional Transit Authorities (RTA) to all employees of participating large employers. The MBTA or RTA shall make the program available to all large employers that are located within 1 mile of MBTA or RTA service. The E-Pass agreements shall contain all the terms of participation by employers, the obligations of the department, MBTA, and RTAs under the program, and such other terms as necessary. The department shall establish a goal that at least 50 per cent of large employers in the commonwealth have an E-Pass program in place within five years of the establishment of the voluntary program. For purposes of this section, large employer shall mean employers that employ at least 50 employees in the commonwealth. The E-Pass fare shall be negotiated by the department with each participating employer and shall be set at a level to assure that no transit authority has a reduction in fare revenue as a result of the program. Employers within one mile of service provided by the MBTA or a RTA that participate would be required to pay the applicable E-Pass fare for each employee directly to the applicable RTA or MBTA. The department may authorize alternative arrangements under unusual circumstances.”

The amendment was rejected.

Mr. Beaton of Shrewsbury and other members of the House then moved to amend the bill by striking out sections 23 and 24.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Beaton; and on the roll call (Ms. Reinstein of Revere being in the Chair) 54 members voted in the affirmative and 97 in the negative.

[See Yeas and Nays No. 53 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

“SECTION 46. Notwithstanding any general or special law to the contrary, no awarding authority shall require or prohibit bidders, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or related projects, or discriminate against bidders, contractors, subcontractors, or operators for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related public works projects.”

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 28 members voted in the affirmative and 124 in the negative.

[See Yeas and Nays No. 54 in Supplement.]

Therefore the amendment was rejected.

Mr. Garballey of Arlington then moved to amend the bill by adding the following three sections:

“SECTION 46. Section 5 of chapter 161A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking

Amendment
rejected,—
yeas and nays
No. 53.

Amendment
rejected,—
yeas and nays
No. 54.

out subsection (e) in its entirety and replacing it with the following new subsection:—

(e) The board shall not establish a fare in excess of 35 per cent of the regular adult cash fare for children between the ages of 5 and 19 years, inclusive, or for persons 65 and older who reside within the commonwealth, or for persons with disabilities who reside within the commonwealth. Any such fare so established shall provide for free transfer privileges.

SECTION 47. Section 5 of said chapter 161A is hereby amended by inserting after subsection (r) the following subsection:

(s) The authority shall not increase fares more often than once every two years. An increase in fares shall not be greater than the per cent increase in average wages in the authority service area based on the Quarterly Census of Employment and Wages published by the United States Department of Labor Bureau of Labor Statistics and measured between the implementation date of the previous fare increase and the implementation date of the proposed fare increase.

SECTION 48. Section 8 of chapter 161B of the General Laws is hereby amended by inserting after the first sentence in subsection (d) the following text:

Fares shall not be increased more often than once every two years. An increase in fares shall not be greater than the per cent increase in average wages in the authority service area based on the Quarterly Census of Employment and Wages published by the United States Department of Labor Bureau of Labor Statistics and measured between the implementation date of the previous fare increase and the implementation date of the proposed fare increase. Fares shall not be in excess of 35 per cent of the regular adult cash fare for children between the ages of 5 and 19 years, inclusive, or for persons 65 and older who reside within the commonwealth, or for persons with disabilities who reside within the commonwealth. Any such fare so established shall provide for free transfer privileges.”

The amendment was rejected.

The same member then moved to amend the bill by adding the following section:

“SECTION 46. (a) There shall be a Transportation Finance Advisory Board (board) to the Department with a purpose of reviewing at least annually the adequacy of transportation funding and the Department’s budget and whether the distribution and use of transportation funds is consistent with the laws and policies of the commonwealth and making recommendations related to transportation finance and spending. The board shall publish an annual report of its review and recommendations and shall file the report with the governor, the secretary of transportation, the clerks of the house of representatives and the senate, the house and senate committees on ways and means and the joint committee on transportation.

(b) The governor shall appoint twelve persons to the board for two year terms each. The appointments shall reflect the geographic diversity of the commonwealth and shall include representatives of business, finance, labor, transportation advocacy, environmental advocacy, cities and towns, regional planning authorities, and metropolitan planning organizations. At least one member of the board shall be a person

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who regularly rides public transit (at least 100 rides per year). Not more than nine members shall be of the same political party. The Secretary of Transportation shall be the 13th member of the board and shall serve *ex officio*. One of the members shall be appointed by the governor to serve as chairperson of the board; provided, however, that said designee shall not be an employee of the department or any division thereof. Each board member shall serve without compensation but may be reimbursed for actual and necessary expenses reasonably incurred in the performance of their duties, including reimbursement for reasonable travel; provided, however that such reimbursement shall not exceed \$500 annually. Any person appointed to fill a member vacancy on the Advisory Board shall be appointed in a like manner and shall serve for only the unexpired term of such former member. Any member shall be eligible for reappointment. Any member may be removed from his appointment by the governor for cause. The board shall annually elect 1 of its members to serve as vice-chairperson.

Seven members shall constitute a quorum and the affirmative vote of a majority of members present at a duly called meeting, if a quorum is present, shall be necessary for any action to be taken by the board. Any action required or permitted to be taken at a board meeting may be taken without a meeting if all of the members' consent in writing to such action and such written consent is filed with the records of the minutes of the meetings of the board. Such consent shall be treated for all purposes as a vote at a meeting. Each member shall make full disclosure of his financial interest, if any, in matters before the board by notifying the state ethics commission, in writing, and shall abstain from voting on any matter before the board in which he has a financial interest, unless otherwise permissible under chapter 268A.

(c) The Secretary shall annually provide the board with the Annual Finance Plan required by chapter 6C, section 16, of the General Laws, and such other information as the board shall reasonably require.

(d) Any research, analysis or other staff support that the board reasonably requires shall be provided by the department.

(e) Each meeting of the board shall provide a sufficient opportunity for public comment. The board also shall provide at least thirty days for written public comment on a draft annual report and shall take the comments received into consideration before publishing its annual report.”

The amendment was rejected.

Mr. Garballey then moved to amend the bill by adding following section:

“SECTION 46. Chapter 6C of the General Laws is hereby amended by adding the following three sections:—

Section 74. The paratransit fares of the Massachusetts Bay Transportation Authority and the Regional Transit Authorities shall not exceed:

(a) The regular adult single ride local bus cash fare for persons who reside in the commonwealth and whose income does not exceed 200 per cent of the Federal Poverty Guidelines as published and updated by the United States Department of Health and Human Services;

(b) One and one-half times the regular adult single ride local bus cash fare for persons who reside in the commonwealth and whose income is above 200 per cent and does not exceed 300 per cent of the

Federal Poverty Guidelines as published and updated by the United States Department of Health and Human Services; and

(c) Twice the regular adult single ride local bus cash fare for persons who reside in the commonwealth and whose income exceeds 300 per cent of the Federal Poverty Guidelines as published and updated by the United States Department of Health and Human Services.”.

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking out sections 15 and 16.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Jones; and on the roll call (Mr. Donato of Medford being in the Chair) 45 members voted in the affirmative and 106 in the negative.

Amendment rejected,—
yea and nay
No. 55.

[See Yea and Nay No. 55 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking out section 17.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 48 members voted in the affirmative and 103 in the negative.

Amendment rejected,—
yea and nay
No. 56.

[See Yea and Nay No. 56 in Supplement.]

Therefore the amendment was rejected.

Mr. Frost of Auburn and other members of the House then moved to amend the bill by striking out section 18.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. D’Emilia of Bridgewater; and on the roll call 53 members voted in the affirmative and 95 in the negative.

Amendment rejected,—
yea and nay
No. 57.

[See Yea and Nay No. 57 in Supplement.]

Therefore the amendment was rejected.

Subsequently statements of Messrs. Basile of Boston and Cusack of Braintree were spread upon the records of the House, as follows:

MR. SPEAKER: During the above taking of the yeas and nays, I was absent from the House Chamber on official business in another part of the State House. Had I been present when the vote was taken, I would have voted in the negative.

Statement of
Mr. Basile
of Boston.

MR. SPEAKER: During the above taking of the yeas and nays, I was absent from the House Chamber on official business in another part of the State House. Had I been present when the vote was taken, I would have voted in the negative.

Statement of
Mr. Cusack
of Braintree.

Mr. Hunt of Sandwich and other members of the House then moved to amend the bill by striking out sections 12, 13 and 14.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Hunt; and on the roll call 44 members voted in the affirmative and 108 in the negative.

Amendment rejected,—
yea and nay
No. 58.

[See Yea and Nay No. 58 in Supplement.]

Therefore the amendment was rejected.

Mr. Lombardo of Billerica and other members of the House then moved to amend the bill by striking out sections 19 to 22, inclusive.

Amendment
rejected,—
yea and nay
No. 59.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 47 members voted in the affirmative and 104 in the negative.

[See Yea and Nay No. 59 in Supplement.]

Therefore the amendment was rejected.

Ms. Malia of Boston then moved to amend the bill by adding the following section:

“SECTION 46. Section 24 of chapter 161A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding after the last sentence the following sentences:— Real property of the authority shall, if leased, used, or occupied in connection with a business conducted for profit shall, for the privilege of such lease, use or occupancy be valued, classified, assessed and taxed annually as of January first to the lessee, user, or occupant in the same manner and to the same extent as if such lessee, user, or occupant were the owner thereof in full. No tax assessed under this section shall be a lien upon the real estate with respect to which it is assessed; nor shall any tax be enforced by any sale or taking of such real estate; but the interest of any lessee therein may be sold or taken by the collector of the town in which the real estate lies for the nonpayment of such taxes in the manner provided by law for the sale or taking of real estate for nonpayment of annual taxes. Notwithstanding the above, such collector shall have for the collections of taxes assessed under this section all other remedies provided by chapter sixty for the collection of annual taxes upon real estate.”.

The amendment was adopted.

Messrs. Hecht of Watertown and Lewis of Winchester then moved to amend the bill by adding the following section:

“SECTION 47. The second paragraph of section 1 of chapter 64C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the words ‘snuff, snuff flour and any other tobacco or tobacco product prepared in such manner as to be suitable for chewing, including, but not limited to cavendish, plug, twist and fine-cut tobaccos’ and inserting in place thereof the following words:— any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means other than smoking, or any component, part, or accessory of a tobacco product, including, but not limited to, snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco; but does not include cigars, cigarettes, or smoking tobacco as defined in chapter 64C. ‘Smokeless tobacco’ excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.”.

The amendment was rejected.

The same members then moved to amend the bill by adding the following section:

“SECTION 47. Section 7C of chapter 64C of the General Laws is hereby further amended by adding the following subsection:—

(d) Any change, henceforth, to the state excise tax rate for cigarettes shall cause a commensurate adjustment in the state excise tax for all other tobacco products under chapter 64C. For purposes of this subsection (d), the term ‘commensurate adjustment’ shall be determined by dividing the change in the state cigarette excise tax by the total cigarette excise tax prior to that change, and the resulting percentage change shall be applied to calculate the commensurate adjustment to the state excise taxes for cigars, smokeless tobacco and smoking tobacco. There shall be no negative commensurate adjustments, and the said rate for each tobacco product each shall be adjusted independently of the other such product categories under chapter 64C. The change in cigarette excise tax and commensurate adjustments shall have the same effective date.”.

The amendment was rejected.

Messrs. Hecht and Lewis then moved to amend the bill by adding the following section:

“SECTION 47. Section 6 of Chapter 64C, is hereby amended by adding the following paragraph:—

Notwithstanding the provisions of section 28, and the provisions of this section, a portion of cigarette excise revenues paid under this section shall be credited to the Massachusetts Tobacco Cessation and Prevention program within the Department of Public Health. The amount credited to the fund in fiscal year 2014 shall be twenty per cent of the monthly excess, if any, on cigarette excise payments received in August 2013 to June 2014 over the cigarette excise payments received in the same months in the previous fiscal year. The amount credited to the Fund in fiscal year 2015 shall be twenty per cent of the monthly excess in cigarette excise payments received in fiscal year 2015 over cigarette excise payments received in the same months in fiscal year 2012. The amount credited to the fund in fiscal year 2016 and thereafter shall be twenty per cent of the monthly cigarette revenue received in each such year multiplied by the percentage of cigarette excise collections in 2015 that were credited to the fund.”.

The amendment was rejected.

Ms. Provost of Somerville then moved to amend the bill by adding the following section:

“SECTION 47. Section 4 of Chapter 21J of the general laws, as appearing in the official edition, is hereby amended by inserting the following after paragraph (d):—

(e) Notwithstanding any other subsections this chapter or any other applicable general or special law, the treasurer shall at the conclusion of each fiscal year beginning at the conclusion of fiscal year 2013, determine whether monies collected are deemed to be excess to the purposes outlined in chapter 21J and shall, no later than September 1, transfer all such excess amounts into the Commonwealth Transportation Fund established in section 2ZZZ of chapter 29.”.

The amendment was rejected.

Messrs. Galvin of Canton and Kafka of Stoughton then moved to amend the bill in section 5 by adding the following sentence: “It shall

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also include, but not be limited to, projected construction costs, projected maintenance costs, projected operational costs, and clearly defined sources of funding, including projected revenue, to pay for each individual project identified in the 10 year capital plan.” The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

“SECTION 47. Chapter 161A of the General Laws, as most recently amended by chapter 119 of the Acts of 2012, is hereby amended by inserting at the end thereof the following new section:—

Section 50. Notwithstanding any general or special law to the contrary, the department or the authority shall not undertake any system expansion, defined as encompassing the development, conceptual planning, design and construction of any effort to expand the scope of services at the authority, until the department or the authority conducts a cost analysis and certifies that the addition of the project will not prevent the authority from generating sufficient revenue to contribute 34 per cent of the authority’s operating budget annually. This cost analysis shall include any and all costs associated with the project including debt service, construction costs, future maintenance and associated costs. The auditor of the commonwealth shall request that the administrator of the appropriate division of the department prepare the fiscal analysis, including life cycle costs, demonstrating that sufficient revenues exist or will be generated to operate and maintain in good repair the expansion. This analysis shall also be submitted to the joint legislative committee on revenue.

Nothing in this section shall be construed to prevent any system enhancement, defined as encompassing capital projects that improve existing service and foster increased ridership on exiting transit systems.”.

The amendment was adopted. Subsequently Mr. Sciortino of Medford moved that this vote be reconsidered; and after remarks the motion to reconsider was negatived.

Mr. Moran of Boston then moved to amend the bill by adding the following two sections:

“SECTION 48. Section 5 of chapter 161B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by deleting the second paragraph and inserting in place thereof the following paragraph:—

One representative of the disabled commuter population shall serve on each advisory board for a 1 year term. Such person shall have 1 vote on the advisory board. Every city or town in the region, on a rotating basis as determined by the board, shall appoint a representative successively. The mayor or city manager and the chairman, town manager or town administrator shall appoint a resident of the city or town for this purpose. This representative shall be a mobility impaired person who regularly uses services offered by the regional transit authority, or have a family member who is mobility impaired and so uses such services, or be a caretaker of a person who is mobility impaired and so uses such services, or work for an organization that serves the needs of the physically disabled. The representative of a city or town may be reappointed after representatives from the other cities and towns within the region have served their 1 year terms.

SECTION 49. Section 5 of chapter 161B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:—

The governor shall appoint 1 person to each advisory board from a list of at least 5 persons nominated by the Massachusetts State AFL-CIO and its regional councils, each of whom shall reside in a municipality served by the regional transit authority on whose board such appointee sits. Each appointment shall be for a 1 year term. Such persons shall have 1 vote on the advisory board.”

The amendment was adopted.

The Chair (Mr. Donato of Medford) placed before the House the question on suspension of Rule 1A in order that the House might continue to meet to meet beyond the hour of nine o’clock P.M.

Rule 1A.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provisions of said rule; and on the roll 120 members voted in the affirmative and 30 in the negative.

Rule 1A suspended.—yea and nay No. 60.

[See Ye and Nay No. 60 in Supplement.]

Therefore Rule 1A was suspended.

Mr. Collins of Boston then moved to amend the bill by adding the following section:

“SECTION 50. Chapter 64D of the General Laws is hereby amended by striking out sections 1 to 2, as so appearing, and inserting in place thereof the following 2 sections:—

Section 1. (a) There shall be levied, collected and paid the excise specified in this section on each conveyance of real property located in the commonwealth or interest in real property located in the commonwealth; when the consideration for the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining on the interest or property at the time of the sale, exceeds \$100 and does not exceed \$500, \$2; and for each additional \$500 or fractional part thereof, \$2, but in Barnstable county, the excise specified in this section shall be \$1.50 for each \$500 or fractional part of the consideration, excluding a consideration of between \$0 and \$100 dollars. The excise shall be payable at the registry of deeds in the county in which the real property lies, regardless of whether the conveyance is evidenced by a deed, instrument, or other writing or whether the deed, instrument, or other writing is otherwise recorded. Notwithstanding any other provisions of this section or any other general or special law to the contrary, Nantucket county may disburse and expend deposits in county excise funds for the purpose of facilities and programs related to law enforcement, including the planning, improving or constructing of police stations and other related facilities and programs. This chapter shall not apply to any instrument or writing given to secure a debt or to any conveyance to which the commonwealth, a city or town of the commonwealth, or the United States or any of their agencies are a party.

(b) For purposes of calculating the excise set forth in this chapter, under regulations to be adopted by the commissioner, the commissioner may treat multiple transactions as a single transaction or may otherwise adopt reasonable rules to avoid multiple applications of the excise when the transactions are components of a single project including, but not limited to, projects involving historic rehabilitation tax

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credits, the Community Preservation Act and the development of affordable housing.

(c) For purposes of this chapter, unless otherwise expressly stated, the following words shall have the following meanings:

‘Conveyance’, a transfer or transfers, directly or indirectly, of any interest in real property by any method, including but not limited to sale, exchange, grant, assignment, trust indenture, or transfer or acquisition of a controlling interest in any entity with an interest in real property, but the transfer or acquisition of a controlling interest shall be considered to be a conveyance only if the fair market value of the interest or interests in real property wherever situated that is owned by the entity, whether directly or through subsidiary entities, equals or exceeds 80 per cent of the fair market value of all of the assets of the entity.

‘Interest in real property,’ includes, but is not limited to, an estate in fee simple, a beneficial interest, a life estate, a perpetual easement, or a leasehold or sublease interest, ordinary or proprietary, but only where the sum of the term of the lease or sublease and any options for renewal, extension, or the like exceeds 49 years.

‘Transfer or acquisition of a controlling interest’, occurs, in the case of a corporation which has an interest in real property, when a person, or group of persons acting in concert, transfers or acquires, directly or indirectly, including through the transfer or acquisition of an interest in another entity, a total of 50 per cent or more of the total combined stock of the corporation, by vote or value. In the case of any partnership, limited liability company, association, trust, or other entity having an interest in real property, the transfer or acquisition of a controlling interest therein occurs when a person, or group of persons acting in concert, transfers or acquires, directly or indirectly, including through the transfer or acquisition of an interest in another entity, a total of 50 per cent or more of the capital, profits, or beneficial interest in the entity.

(d) Persons are considered to be ‘acting in concert’ when, in accordance with regulations adopted by the commissioner, they have a relationship such that 1 person influences or controls the actions of another. Where the individuals or entities are not commonly controlled or owned, persons shall be considered to be acting in concert when, in accordance with regulations adopted by the commissioner, the unity with which the sellers or purchasers have negotiated and will consummate the transfer of ownership interests indicates that they are acting as a single entity. If the transfers or acquisitions are completely independent, each seller selling or purchaser buying without regard to the identity of the other sellers or purchasers, then the transfers or acquisitions shall be treated as separate transfers or acquisitions.

(e) For purposes of determining whether a controlling interest is transferred or acquired, only transfers or acquisitions of interests occurring on or after January 1, 2008, shall be added together. Where there is a transfer or acquisition of an interest in an entity that has an interest in real property on or after January 1, 2008, and subsequently there is a transfer or acquisition of an additional interest or interests in the same entity, the transfers or acquisitions shall be added together to determine whether a transfer or acquisition of a controlling interest has occurred. No transfer or acquisition of an interest in an entity that has an interest

in real property shall be added to another transfer or acquisition in the same entity if they occur more than 3 years apart, unless the transfers or acquisitions are so timed as part of a plan to avoid the excises specified in this section. Notwithstanding the foregoing, neither a bona fide pledge of stock, partnership, or other interest as loan collateral nor any conveyance of publicly traded stock, partnership, or other interest, shall be considered subject to taxation under this chapter.

(f) The commissioner may adopt regulations to implement this section.

Section 2. The excise imposed by this chapter shall be paid by the person who conveys the real property or interest in real property, or for whose benefit the real property or interest in it is conveyed. When the conveyance consists of a transfer or an acquisition of a controlling interest in an entity with an interest in real property, the 'person who conveys' the interest means, but is not limited to, a shareholder, partner, or other interest-holder transferring stock, a partnership interest, or another equity interest, respectively. The payment of the excise shall be denoted by 'stamps,' as that term is defined in section 3, affixed to or printed directly on the deed, instrument or writing evidencing the conveyance, or if none, to a form prescribed by the commissioner for the purpose. In any case in which a conveyance subject to the excise imposed in this chapter is not evidenced by a deed, instrument, or writing that will be recorded, the conveyance shall be evidenced by recording the stamp form required by this section. The person affixing or printing a stamp shall cancel the same by writing or stamping on it the initials of his name and the date when the stamp is affixed or printed, in such manner that it cannot be used again; but the stamp shall not be so defaced as to prevent determination of its denomination and genuineness. The word 'person' shall, for the purposes of this chapter, include political subdivisions of the commonwealth, individuals, partnerships, corporations, trusts, limited liability companies, societies, associations, or any other form of unincorporated enterprise."

Mr. McMurtry of Dedham thereupon raised a point of order that the amendment offered by the gentleman from Boston was beyond the scope of the subject-matter currently before the House.

Point of order.

The Chair (Mr. Donato of Medford) stated that the amendment offered by the gentleman from Boston pertains to the subject of deeds excise avoidance and would expand the provisions of the bill. Therefore, the Chair ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 18 the following section:

"SECTION 18A. Chapter 64A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, after section 7A, the following section:—

Section 7B. The sale of fuel to a city or town which having consumed the same for any municipal purpose shall be exempt from the excise established by this chapter."

Pending the question on adoption of the amendment, Mr. Straus of Mattapoisett moved to amend it by adding the following section:

"SECTION 18B. Notwithstanding any special or general law to the contrary, the provisions section 18A shall not take effect until such

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time as (i) the secretary of administration and finance, in consultation with the secretary of transportation, furnishes an analysis on the fiscal impacts of providing such an exemption, which shall include a cost-benefit analysis, available revenues to the Massachusetts department of transportation and an examination of how the exemption aligns with the recommendations and principles adopted by the tax expenditure commission; and (ii) legislation necessary to carry out the recommendations in the report has been filed and enacted pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the Constitution.”.

Further
amendment
adopted,—
yea and nay
No. 61.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton (Mrs. Haddad of Somerset being in the Chair); and on the roll call 108 members voted in the affirmative and 42 in the negative.

[See Yea and Nay No. 61 in Supplement.]

Therefore the further amendment was adopted.

The amendment offered by Mr. Jones, et al, as amended, then also was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 8 the following two sections:

“SECTION 8A. Sections 52, 53, 54, 55 and 56 of chapter 7 of the General Laws, as so appearing, are hereby repealed.

SECTION 8B. Section 73 of chapter 6C of the General Laws, as so appearing, is hereby amended by striking the sixth, seventh and eighth paragraphs and inserting in place thereof the following:—

The report shall be delivered within 30 days of the commission’s approval of a request for proposal for design-build-finance-operate-maintain or design-build-operate-maintain services to the secretary for administration and finance, the house committee on ways and means, the senate committee on ways and means, and the joint committee on transportation.

The commission shall review projects on the comprehensive state transportation plan, required under section 11, and the comprehensive long term capital plan, required under section 11A, to determine if any projects would be appropriate for a public-private agreement. If the commission determines that a project would be appropriate for such an agreement, the commission shall submit its recommendation to the department. Within 30 days of the commission’s recommendation to the department that a project may be appropriate for a public-private agreement, the commission shall forward its recommendations to the secretary for administration and finance, the house committee on ways and means, the senate committee on ways and means, and the joint committee on transportation.

If the department does not submit a draft of a request for proposal to the commission for its review and approval, required under this section, for a project recommended to the department as a project that may be appropriate for a public-private agreement, the department shall outline its reasons for not submitting such request in writing to the commission, the secretary for administration and finance, the house committee on ways and means, the senate committee on ways and means, and the joint committee on transportation.”.

On the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Jones of North Reading; and on the roll call 28 members voted in the affirmative and 123 in the negative.

Amendment
rejected,—
yea and nay
No. 62.

[See Yea and Nay No. 62 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after Section 4 the following section:

“SECTION 4A. Section 11 of chapter 6C of the General Laws, as so appearing, is hereby amended by striking the second sentence and inserting in place thereof the following:— The plan shall be consistent with the project selection criteria as established by section 11B.”; and in section 5, in line 30, by striking out the word “section” and inserting in place thereof the word “sections”, and by adding at the end of said section the following five paragraphs:

“Section 11B. (a) In order to provide a fair and transparent effort to maintain and repair the transportation assets within the commonwealth, there shall be a project selection advisory council charged with developing a uniform, project selection criteria to be used in the development of a comprehensive state transportation plan, as required by section 11.

(b) The council shall consist of the following members: the secretary or his designee, who shall serve as chair; 3 members appointed by the governor, one of whom shall have practical experience in transportation planning and policy, one of whom shall be a registered civil engineer with at least 10 years experience, and one of whom shall be a member of a regional planning agency; 1 member appointed by the president of the senate, who shall be an expert in the field of transportation finance; 1 member appointed by the minority leader of the senate, who shall be a member of the construction industry; 1 member appointed by the speaker of the house of representatives, who shall be a representative of a transportation consumer organization or other public interest organization; 1 member appointed by the minority leader of the house of representatives, who shall be a member of a business association; and a representative of the Massachusetts Municipal Association. The department shall provide the council with qualified administrative staff and the regional planning agencies may provide qualified technical assistance to the council. The council shall hold its first meeting no later January 1, 2014 and all meetings of the council shall comply with chapter 30A.

(c) The project selection criteria developed pursuant to this section shall include a project priority formula or other data-driven process that includes, but shall not be limited to, the following factors: engineering factors; condition of existing assets; safety; economic impact; regional priorities; and the anticipated cost of the project. The council may divide projects into several categories, including but not limited to: preservation and maintenance of existing assets; modernization of existing assets that improve safety; expansion projects that add to the existing system; and local construction. The factors chosen by the council may be weighted to prioritize specific factors, and such weighting of factors may differ by project category, as determined by the council.

(d) The council shall conduct at least 6 public hearings, one in each of the department’s highway districts, prior to the final approve of the

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project selection criteria. The council shall give interested persons an opportunity to submit their views orally and in writing, and the department may create and maintain a website to allow members of the public to submit comments electronically and review comments submitted by others. The council shall give notice of each public hearing by publishing a notice in a newspaper of general circulation in the highway district in which the hearing is to be located in each of two successive weeks, the first publication to be at least fourteen days before the day of the hearing, and, if feasible, by posting a notice in a conspicuous place in the cities or towns with the highway district for at least the fourteen consecutive days immediately prior to the day of the hearing.

(e) Final approval of the project selection criteria shall be completed by December 31, 2014, and copies of said criteria shall be submitted to the house and senate committees on ways and means and the joint committee on transportation.”.

The amendments were adopted.

Mr. Naughton of Clinton then moved to amend the bill in section 30, in line 610, by inserting after the word “report.” the following: “; provided further that special consideration shall be given to the towns in the surrounding area of the City of Worcester currently without regularly scheduled bus service provided by the Worcester Regional Transit Authority (WRTA), with recommendations on a fair and equitable plan for such communities that are contributing to the WRTA.”. The amendment was adopted.

Representatives O’Connell of Taunton and Lombardo of Billerica then moved to amend the bill by adding the following section:

“SECTION 50. Notwithstanding any general or special law to the contrary, the Board of the Massachusetts Bay Transport Authority shall, in conjunction with the Commonwealth’s transparency-promoting open checkbook program, publish online all pension payment information including but not limited to name, former position, amount of yearly distribution of pension, and age of collector by June 1, 2013.”.

Point of
order.

Mr. McMurtry of Dedham thereupon raised a point of order that the amendment offered by the lady from Taunton and the gentlemen from Billerica was beyond the scope of the subject-matter currently before the House.

In answer to the point of order, the Chair (Mrs. Haddad of Somerset) stated that the amendment offered by the lady from Taunton and the gentlemen from Billerica would expand the provisions of the bill by requiring the publishing on-line of certain pension information. Therefore, the Chair ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Appeal from
decision of
Chair.

Mrs. O’Connell of Taunton thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Diehl of Whitman.

The question was then put “Shall the decision of the Chair stand as the judgment of the House?”.

Decision of
Chair
sustained,—
yea and nay
No. 63.

After debate on the appeal from the decision of the Chair, the sense of the House was taken by yeas and nays, at the request of Mrs. O’Connell; and on the roll call (Mr. Donato of Medford being in the Chair) 123 members voted in the affirmative and 29 in the negative.

[See Yea and Nay No. 63 in Supplement.]

Therefore the decision of the Chair was sustained.

Mr. Barrows of Mansfield then moved to amend the bill by striking out section 18 and inserting in place thereof the following section:

“SECTION 18. Section 1 of chapter 64A of the General Laws, as so appearing, is hereby amended by adding after ‘cents per gallon’ the following words: annually adjusted by the Consumer Price Index as defined in section 1 of the Internal Revenue Code during the years 2014 through 2018.”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 42 members voted in the affirmative and 107 in the negative.

Amendment
rejected,—
yea and nay
No. 64.

[See Yea and Nay No. 64 in Supplement.]

Therefore the amendment was rejected.

Mr. Winslow of Norfolk then moved to amend the bill by inserting after section 22 the following section:

“SECTION 22A. Section 13 of chapter 64C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking in line 54, the word ‘twenty-five’ and inserting in place thereof the following words:— twelve and one half.”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 41 members voted in the affirmative and 107 in the negative.

Amendment
rejected,—
yea and nay
No. 65.

[See Yea and Nay No. 65 in Supplement.]

[Mr. deMacedo of Plymouth answered “Present” in response to his name.]

Therefore the amendment was rejected.

Mr. Winslow then moved to amend the bill by adding the following section:

“SECTION 50. (a) Establishment. There shall be established a labor market analysis commission to oversee an investigation and study of the current Massachusetts labor market value of each position of employment within the department of transportation to determine the amount of wages or salary, benefits and pension that would be required to be paid in the private sector to attract and employ personnel of comparable education, skill, and training for each such position.

(b) Membership. The commission shall consist of seven members as follows:

- (i) the president of the senate or designee;
- (ii) the speaker of the house or designee;
- (iii) the minority leader of the senate or designee;
- (iv) the minority leader of the house or designee;
- (v) the governor or designee; and
- (vi) two persons appointed by the governor, one of whom shall have experience as a member of a public employee union and one of whom shall have experience as a member of public agency management.

(c) Expert. The commission shall engage the services of an expert in labor market economics to conduct the study and may expend funds necessary therefor.

(d) Report. The commission shall report the results of its investigation and study, together with drafts of legislation, if any, necessary to carry its recommendations into effect, before January 1, 2014. The

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commission shall file the report with the clerks of the senate and house of representatives, who shall forward the same to the joint committee on transportation and the house and senate committees on ways and means on or before January 1, 2014.”

The amendment was rejected.

Mr. Winslow of Norfolk then moved to amend the bill by adding the following section:

“SECTION 50. For the labor market analysis commission to study the labor market value of positions of employment in the department of transportation \$100,000.”

The amendment was rejected.

The same member then moved to amend the bill in section 2, in line 18, by inserting after the word “Laws” the words “and for the labor market analysis commission to study the labor market value of positions of employment in the department of transportation”. The amendment was rejected.

Mr. Winslow of Norfolk then moved to amend the bill by inserting after section 18 the following section:

“SECTION 18A. Section 13 of chapter 64A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting in line 11, after the word ‘purposes’, the following:— ; provided, however, that no less than seventy per cent of such sums shall be expended for capital projects and improvements and related costs located within the highway district where such sums were collected. Such sums shall be used for such capital projects and improvements and related costs in the highway district under the supervision of the district highway director of each district office.”

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 41 members voted in the affirmative and 109 in the negative.

[See Ye and Nay No. 66 in Supplement.]

Therefore the amendment was rejected.

Ms. Dykema of Holliston then moved to amend the bill by adding the following five sections:

“SECTION 50. Clause 18 of section 3 of chapter 6C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word ‘corridor’, in line 74, the following words:— , and 1 of which shall be held in a municipality that borders the turnpike between Interstate 495 and Interstate 95.

SECTION 51. Subsection (a) of section 13 of said chapter 6C of the General Laws, as so appearing, is hereby amended by inserting after the figure ‘3’, in line 5, the following:— ; provided, however, that the department shall provide a 20 per cent discount on all tolls in effect for Massachusetts residents who participate in the department’s electronic toll collection system.

SECTION 52. Subsection (b) of said section 13 of said chapter 6C of the General Laws, as so appearing, is hereby amended by inserting after the figure ‘4’, in line 41, the following:— ; provided further, that the department shall provide a 20 per cent discount on all tolls in effect for Massachusetts residents who participate in the department’s electronic toll collection system.

Amendment
rejected,—
yea and nay
No. 66.

SECTION 53. The Massachusetts Department of Transportation shall submit a request to the federal government to charge and collect and, from time to time, fix and revise tolls for transit over or through interstate highways that cross the commonwealth's borders.

SECTION 54. Sections 51 and 52 shall apply to tolls in effect on January 1, 2013.”.

The amendment was rejected.

Mr. Costello of Newburyport then moved to amend the bill by adding the following three sections:

“SECTION 50. Section 1 of chapter 64C, as so appearing, is hereby further amended by striking the words ‘sections twenty-nine to thirty-nine, inclusive,’ in lines 63, and replacing them with the following:— section 33A.

SECTION 51. Section 1 of Chapter 94F is hereby amended by adding the following definitions:—

‘Contraband’, such units of smokeless tobacco sold, purchased, transported, imported, received, or possessed and (i) upon which any required tax has not been paid, (ii) has been imported in violation of federal, state or local law, (iii) the packaging of which has been altered so as to remove, conceal or obscure any statement, label, stamp, sticker, or notice or any health warning in violation of federal, state or local law.

‘Smokeless Tobacco’, snuff, snuff flour and any other tobacco or tobacco product prepared in such manner as to be suitable for chewing, including, but not limited to Cavendish, plug, twist and fine-cut tobaccos.

‘Unit of smokeless tobacco’, a single container to be purchased by the consumer.

SECTION 52. Chapter 94F is hereby further amended by adding the following new sections:—

Section 5A. Smokeless Tobacco; Possession without license; Penalties. Any person, except as otherwise provided by law, who sells, purchases, transports, imports, receives, or possesses smokeless tobacco upon which tax has not been paid shall be required to pay any tax owed pursuant Massachusetts law. In addition, such person shall be required to pay a civil penalty of (i) \$2.50 per unit of smokeless tobacco, up to \$500, for the first violation by a legal entity within a 36-month period; (ii) \$5 per unit of smokeless tobacco, up to \$1,000, for the second violation by the legal entity within a 36-month period; and (iii) \$10 per unit of smokeless tobacco, up to \$2,000, for the third and any subsequent violation by the legal entity within a 36-month period, to be assessed and collected by the commissioner as other taxes are collected. In addition, where willful intent exists to defraud the Commonwealth of any tax levied on smokeless tobacco pursuant to Massachusetts law, such person shall be required to pay a civil penalty of \$25 per unit of smokeless tobacco, up to \$25,000.

B. It shall be unlawful for any person, except as otherwise provided by law, to sell, purchase, transport, import, receive or possess fewer than 500 units of smokeless tobacco unless the tax on those units has been paid. Any person violating the provisions of this subsection shall be guilty of a misdemeanor.

C. It shall be unlawful for any person, except as otherwise provided by law, to sell, purchase, transport, import, receive or possess 500 or

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more units of smokeless tobacco unless the tax on those units has been paid. Any person violating the provisions of this subsection shall be guilty of a felony

D. If a person who (i) has not been issued a license, as provided in Section two of Chapter sixty-four C or (ii) is not a retail dealer who has lawfully purchased smokeless tobacco from such license holder has in his possession within the Commonwealth more than 25 units smokeless tobacco upon which no tax has been paid, such possession shall be presumed to be for the purpose of evading the payment of the taxes due thereon.

E. Any person other than an authorized holder who possesses, with intent to distribute, more than 25, but fewer than 500, units of tax-paid smokeless tobacco is guilty of a misdemeanor for a first offense and is guilty of a felony for any second or subsequent offense.

F. Any person other than an authorized holder who possesses, with intent to distribute, more than 500, units of tax-paid smokeless tobacco is guilty of a felony.

G. Additionally, any person who violates the provisions of this section shall be assessed a civil penalty of (i) \$2.50 per unit, but no more than \$5,000, for a first offense; (ii) \$5 per unit, but no more than \$10,000, for a second such offense committed within a 36-month period; and (iii) \$10 per unit, but no more than \$20,000, for a third or subsequent such offense committed within a 36-month period. The civil penalties shall be assessed and collected by the commissioner as other taxes are collected.

Section 5B. Illegal distribution of smokeless tobacco.

It shall be unlawful for any person to:

Sell or distribute in the Commonwealth of Massachusetts, acquire, hold, own possess, or transport, for sale or distribution in the Commonwealth, or import, or cause to be imported, into the Commonwealth for sale or distribution in the Commonwealth any smokeless tobacco, (i) the packages of which bear any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the smokeless tobacco to be sold, distributed, or used in the United States, including but not limited to labels stating 'For Export Only,' 'U's. Tax-Exempt,' 'For Use Outside U's.,' or similar wording; (ii) the packages of which do not comply with all requirements imposed by or pursuant to federal law regarding warnings and any other information on packages manufactured, packaged, or imported for sale, distribution, or use in the United States or all federal trademark and copyright laws; (iii) imported into the United States in violation of any federal law or regulation; or (iv) that such person otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States.

Alter any package of any smokeless tobacco, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure (i) any statement, label, stamp, sticker, or notice described in clause (i) of the foregoing paragraph or (ii) any health warning that is not specified in, or does not conform with the requirements of federal law.

The commissioner may impose a civil penalty in an amount not to exceed the greater of 500 percent of the retail value of the smokeless tobacco involved or \$5,000 upon finding a violation of this provision

and may assess the tax due and any interest upon the product acquired, possessed, sold, or offered for sale in violation of this provision.

Any person who commits any of the acts prohibited by this section, either knowingly or having reason to know he is doing so shall be guilty of a felony.

In addition to any other remedy provided by law, any person may bring an action for appropriate injunctive or other equitable relief for a violation of this provision, for actual damages, if any, sustained by reason of the violation, and as determined by the court, interest on the damages from the date of the complaint, and taxable costs. If the court finds that the violation was willful, it may increase damages to an amount not exceeding three times the actual damages sustained by reason of the violation.

For the purpose of enforcing this provision, the commissioner may request or share information with any federal, state or local agency, including any agency of another state or local agency thereof.

Section 5C. Forfeiture of Contraband Smokeless Tobacco.

Contraband smokeless tobacco possessed in violation of Sections five A and B of this Chapter ninety-four F shall be subject to seizure, forfeiture, and destruction by the commissioner or any law-enforcement officer of the Commonwealth. All fixtures, equipment, materials, and personal property used in substantial connection with the sale or possession of smokeless tobacco in a knowing and intentional violation of Sections five A and B of this Chapter ninety-four F shall be subject to seizure and forfeiture as provided in sections fifty to fifty-five, inclusive, of chapter one hundred and thirty-eight in the case of alcoholic beverages.”.

The amendment was adopted.

Mr. Straus of Mattapoissett then moved to amend the bill by adding the following section:

“SECTION 53. The Massachusetts Department of Transportation shall undertake an analysis of the air quality impacts of the Central Artery Project and associated transit commitments completed to date. The analysis shall be conducted in cooperation with the Boston Region Metropolitan Planning Organization and shall report on the levels of Volatile Organic Compounds, Oxides of Nitrogen, and Carbon Monoxide in the MPO region and Eastern Massachusetts. The results of the analysis shall be provided to the Joint Committee on Transportation within six months of the effective date of this act.”.

The amendment was adopted.

Mr. Fernandes of Milford and other members of the House then moved to amend the bill in section 27, in lines 554 to 559, inclusive, by striking out paragraph (b) and inserting in place thereof the following paragraph:

“(b) The benchmarks in subsection (a) may be achieved through savings to the department’s operating budget; provided, that the department shall submit a preliminary report of savings to the operating budget by October 1 of each fiscal year and a final report of savings to the operating budget by January 1 of each fiscal year; and provided further that the department shall not implement any proposed increase in the toll structure that is in place on April 1, 2013 on said metropolitan highway system and turnpike except in strict accordance

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with the provisions of Chapter 6C, Section 3, Clause (18). The preliminary and final savings reports shall be submitted to the house and senate committees on ways and means and the joint committee on transportation.”

The amendment was adopted.

Mr. Naughton of Clinton then moved to amend the bill in section 21 by adding the following four paragraphs:

“(k) for the purposes of this section ‘artificially flavored tobacco products’ shall have the following meaning:

‘artificially flavored tobacco products’, the cigarette, or any smoke emanating from that product, imparts a distinguishable flavor, taste or aroma other than tobacco, clove or menthol prior to or during consumption, including, but not limited to, any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice flavoring; or the cigarette or any component part thereof is advertised or marketed as having or producing any such flavor, taste or aroma.

(i) no retailer shall possess on its retail premises or otherwise make available to its retail customer, with or without a fee, any individually packaged artificially flavored tobacco products. All artificially flavored tobacco products shall only be available to any retail customers in packages of three or more

(ii) There shall be a \$2.00 excise tax on any artificially flavored tobacco product sold in the Commonwealth.”

Point of
order.

Mr. Peterson of Grafton thereupon raised a point of order that the amendment offered by the gentleman from Clinton was beyond the scope of the subject-matter currently before the House.

In answer to the point of order, the Chair (Mr. Donato of Medford) stated that the amendment offered by the gentleman from Clinton pertains to imposing a tax on artificially flavored tobacco products and would expand the provisions of the bill. Therefore, the Chair ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Messrs. Lewis of Winchester and Hecht of Watertown then moved to amend the bill by adding following section:

“SECTION 54. Said section 7B of said chapter 64C of the General Laws is hereby further amended by adding the following subsection:—

(m) In addition to the excise imposed by subsection (b), an excise shall be imposed on all smoking tobacco and on all cigars weighing more than 3 pounds per 1,000 units and not more than 12 pounds per 1,000 units held in the commonwealth at the rate of 110 per cent of the wholesale price of such products.

(n) Notwithstanding any general or special law to the contrary, all additional revenue resulting from the enactment of subsection (m), as estimated by the commissioner of revenue, shall be deposited in the Prevention and Wellness Trust Fund established pursuant to section 2G of chapter 111 of the General Laws, as amended by chapter 224 of the Acts of 2012.”

Point of
order.

Mr. Peterson of Grafton thereupon raised a point of order that the amendment offered by the gentlemen from Winchester and Watertown was beyond the scope of the subject-matter currently before the House.

In answer to the point of order, the Chair (Mr. Donato of Medford) stated that the amendment offered by the gentlemen from Winchester and Watertown would expand the provisions of the bill by imposing an additional excise tax on certain tobacco products. Therefore, the Chair ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Messrs. Hecht and Lewis then moved to amend the bill by adding at the end thereof the following new section:

“SECTION 54. Said section 7B of said chapter 64C of the General Laws is hereby further amended by adding the following subsection:—

(m) In addition to the excise imposed by subsection (b), an excise shall be imposed on all smoking tobacco and on all cigars weighing more than 3 pounds per 1,000 units and not more than 12 pounds per 1,000 units held in the commonwealth at the rate of 110 per cent of the wholesale price of such products.”.

Mr. Peterson of Grafton thereupon raised a point of order that the amendment offered by the gentlemen from Watertown and Winchester was beyond the scope of the subject-matter currently before the House. Point of order.

In answer to the point of order, the Chair (Mr. Donato of Medford) stated that the amendment offered by the gentlemen from Watertown and Winchester imposes an additional tax not contained within the bill currently before the House that would expand the provisions of the bill. Therefore, the Chair ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Frost of Auburn and other members of the House then moved to amend the bill by adding the following section:

“SECTION 54. Chapter 29 of the Acts of 2009 is hereby amended by striking section 173 and inserting in place thereof the following:—

Section 173. Notwithstanding any general or special law to the contrary, the turnpike, operated and maintained by the Massachusetts Department of Transportation, shall be operated and maintained free of tolls: (i) when all notes and bonds issued by the department relating to the turnpike and payable from turnpike revenues have been paid or a sufficient amount for the payment of all such notes or bonds and the interest thereon, to the maturity thereof, shall have been set aside in trust for the benefit of the holders of such notes or bonds; or (ii) on December 31, 2018, whichever occurs first. For the purposes of this section, ‘turnpike’ shall have the same meaning as under section 1 of chapter 6C.”.

Mr. McMurtry of Dedham thereupon raised a point of order that the amendment offered by the gentleman from Auburn, et al, was beyond the scope of the subject-matter currently before the House. Point of order.

In answer to the point of order, the Chair (Mr. Donato of Medford) stated that the amendment offered by the gentleman from Auburn, et al, would expand the provisions of the bill by authorizing certain free tolls on the Massachusetts Turnpike. Therefore, the Chair ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Frost of Auburn thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Peterson of Grafton. Appeal from decision of Chair.

The question was then put “Shall the decision of the Chair stand as the judgment of the House?”

Decision of
Chair
sustained,—
yea and nay
No. 67.

After debate on the appeal from the decision of the Chair, the sense of the House was taken by yeas and nays, at the request of Mr. Frost; and on the roll call 124 members voted in the affirmative and 28 in the negative.

[See Yea and Nay No. 67 in Supplement.]

Therefore the decision of the Chair was sustained.

Mr. Frost of Auburn and other members of the House then moved to amend the bill by inserting after section 6 the following section:

“SECTION 6A. Subsection (a) of section 13 of chapter 6C, as so appearing, is hereby amended by inserting after the word ‘purposes’ in lines 13 and 14, the following:— ; provided however, that no tolls so fixed and adjusted over the turnpike may be expended to pay for the costs incurred related to the metropolitan highway system including, but not limited to, the cost of owning, constructing, maintaining, repairing, reconstructing, improving, rehabilitating, policing, using, administering, controlling and operating the metropolitan highway system; and (ii) the principal of, redemption premium, if any, and the interest on notes or bonds relating to the metropolitan highway system as the same shall become due and payable.”

Amendment
rejected,—
yea and nay
No. 68.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Frost; and on the roll call 28 members voted in the affirmative and 124 in the negative.

[See Yea and Nay No. 68 in Supplement.]

Therefore the amendment was rejected.

Mr. Dempsey of Haverhill then moved to amend the bill by striking out section 3 and inserting in place thereof the following section:

“SECTION 3. Clause (18) of section 3 of chapter 6C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the words ‘the department shall’, in line 73, and inserting in place thereof the following words:— prior to revising the toll structure, the department shall publish a report on its website that sets forth the fiscal alternatives that were examined in lieu of revising the toll structure and detail the reasons why such alternatives were not viable fiscal options, the department shall then convene at least 2 public hearings, each to be held in a community within the turnpike corridor, at least 30 days prior to the effective date of any proposed change in toll structure on the turnpike and shall allow for a 1 week comment period, after each such hearing, during which written testimony and comments shall be accepted; provided, further, that the examination of alternatives shall include an assessment of whether a revision is necessary before the implementation of a system of fair and equitable tolling across the commonwealth pursuant to a statewide tolling plan developed by the department.”;

Inserting after section 11 the following section:

“SECTION 11A. Said clause sixteenth of section 5 of chapter 59 of the General Laws, as so appearing, is hereby further amended by inserting, in line 255, after the word ‘corporation’ the following words:— or a telephone corporation subject to chapter 166.”;

Striking out section 21;

Striking out section 24 and inserting in place thereof the following section:

“SECTION 24. Said section 1 of said chapter 64H, as so appearing, is hereby amended by striking out, in lines 239 to 241, inclusive, the words ‘; and provided, further, that the term services shall be limited to the following item: telecommunications services’ and inserting in place thereof the following words:— , or data access, data processing or information management services; and provided further, that the term services shall be limited to the following items: telecommunications services, computer system design services and the modification, integration, enhancement, installation or configuration of standardized software.”;

In section 27, in line 562, by striking out the words “contributed to” and inserting in place thereof the words “available to the Registry of Motor Vehicles through”;

In section 29, in lines 587 to 596, inclusive, by striking out the paragraph contained in those lines and inserting in place thereof the following two paragraphs:

“(b) The secretary of transportation, in consultation with the secretary of administration and finance, shall file a report regarding the department’s compliance with the second sentence of said section 15 of said chapter 6C on or before August 1, 2013. The report shall include, but not be limited to: (1) the number of employees with salaries funded by capital expenditures in fiscal year 2013; (2) the total cost of employee salaries charged to capital expenditures in fiscal year 2013; (3) the number of employees and total cost of employee salaries that the department estimates will be moved from capital expenditures to operating expenditures in fiscal years 2014, 2015 and 2016; and (4) a strategy to dedicate a portion of the funds made available through compliance with this section to projects that are included in the authority’s 5-year rolling capital investment plan as published in accordance with section 5 of chapter 161A of the General Laws. The report shall be filed with the joint committee on transportation, the house and senate committees on bonding, capital expenditures and state assets and the house and senate committees on ways and means.

(c) The department shall use as necessary the extra bonding capacity or any portion thereof created by the removal of personnel costs from the capital budget pursuant to this section to fund the capital costs associated with planning, design, permitting, engineering and construction of transportation projects.”;

Inserting after section 32 the following two sections:

“SECTION 32A. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Bay Transportation Authority shall expend funds on capital investment projects, including the green line extension project and the south coast rail project, that are listed in the authority’s 5-year rolling capital investment plan as published in accordance with section 5 of chapter 161A of the General Laws.

SECTION 32B. Pursuant to clause (18) of section 3 of chapter 6C of the General Laws, the Massachusetts Department of Transportation shall study and develop a plan to establish and implement a new toll system over roadways across the commonwealth on or before July 1, 2018. Such a plan shall include, but not be limited to, the procurement

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of necessary federal waivers and any reciprocal agreements or interstate compacts, implementation of open road tolling, and the methods of tolling considered such as high occupancy toll lanes; and shall include a cost-benefit and traffic analysis. An initial draft of the plan shall be filed with the clerks of the house and senate on or before December 31, 2013.”;

In section 39, in line 681, by striking out the date “August 1, 2013” and inserting in place thereof the date “July 1, 2013”; and

Striking out section 41 and inserting in place thereof the following section:

“SECTION 41. Sections 10, 11, 11A, 12, 13, 15 and 16 shall take effect January 1, 2014.”.

The amendments were adopted.

Bill passed to
be engrossed,—
yea and nay
No. 69.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays at the request of Mr. Jones of North Reading; and on the roll call 97 members voted in the affirmative and 55 in the negative.

[See Yea and Nay No. 69 in Supplement.]

Therefore the bill, as amended, was passed to be engrossed. Mr. Speliotis of Danvers moved that this vote be reconsidered; and the motion was considered forthwith and it was negative.

The bill (House, No. 3415, published as amended) then was sent to the Senate for concurrence.

Revere,—
land.

The House Bill relative to certain parcels of land in the city of Revere (House, No. 3336, changed) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was discharged from its position in the Orders of the Day and read a third time forthwith, under suspension of Rule 47, on motion of Ms. Reinstein of Revere.

Pending the question on passing the bill to be engrossed, the same member moved to amend it in section 1, in lines 9 and 10, by striking out the following: “nine hundred fifty-nine and thirteen hundredths feet (959.13)” and inserting in place thereof the following: “four hundred seventy-three and twenty-seven hundredths feet (473.27)”;

and, in line 11, by striking out the figures “19°49'03” and inserting in place thereof the figures “19°49'34”.

The amendments were adopted; and the bill (House, No. 3336, changed and amended) was passed to be engrossed. Sent to the Senate for concurrence.

Report of a Committee.

General
Appropriation
Bill,—
procedures.

Mr. Binienda of Worcester, for the committee on Rules, reported (under the provisions of House Rules 7B and 7C) an Order relative to special procedures for consideration of the General Appropriation Bill for the fiscal year 2014 (House, No. 3400) (for order, see House, No. 3399).

Order
adopted,—
yea and nay
No. 70.

On the question on adoption of the order, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 123 members voted in the affirmative and 29 in the negative.

[See Yea and Nay No. 70 in Supplement.]

Therefore the order (House, No. 3399) was adopted.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered, That when the House adjourns today, it adjourn to meet on Thursday next at eleven o'clock A.M. Next sitting.

Accordingly, without proceeding to the matters in the Orders of the Day, at twelve minutes before twelve o'clock midnight, on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Thursday at eleven o'clock A.M., in an Informal Session.